

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BRYAN K. COTTLE,)
Plaintiff,)
vs.)
STATE OF MISSOURI,)
Defendant.)
Case No. 4:22-cv-498-MTS

MEMORANDUM AND ORDER

This case is currently before the Court on a Motion for Reconsideration, Doc. [26], filed by self-represented Plaintiff Bryan Cottle.

In a Memorandum and Order dated September 1, 2022, Doc. [21], the Court struck Plaintiff's Amended Complaint based on Plaintiff's one-sentence Motion, Doc. [16], that sought "to nullify previously mailed amended complaint dated 7/30/2022" in this case. Due to the withdraw of the Amended Complaint, the Court also denied as moot Defendant's motion to dismiss the Amended Complaint, Doc. [14]. Further, because the Original Complaint filed by Plaintiff on May 11, 2022, Doc. [1], was now controlling, the Court ordered the Clerk to update the docket to reflect that Defendant's Motion to Dismiss filed on July 19, 2022, Doc. [7], was again pending in this matter.

As the Court understands Plaintiff's Motion for Reconsideration, Plaintiff did not intend to ask this Court to strike his Amended Complaint, Doc. [13]. Thus, the Court will reverse its September 1, 2022, Order striking Plaintiff's Amended Complaint. The Court will also reverse its September 1, 2022, Order denying as moot Defendant's Motion to Dismiss the Amended Complaint and that motion will again be pending before the Court. *See also* Doc. [28] (Defendant's response to Plaintiff's Motion for Reconsideration). As such, the Court will direct Plaintiff to respond (if he so wishes) to the arguments

made by Defendant in its Motion to Dismiss and Memorandum in Support, Docs. [14] & [15], within **twenty-one days** of the date of this Order. Plaintiff is warned that his failure to respond could result in the dismissal of this case.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration, Doc. [26], is **GRANTED**.

IT IS FURTHER ORDERED that the Court's order issued September 1, 2022, Doc. [21], is **VACATED** to the extent that it struck Plaintiff's Amended Complaint, see Doc. [13], from the record. The Clerk of Court is directed to add the document back to the record.

IT IS FURTHER ORDERED that the Court's order issued September 1, 2022, Doc. [21], is **VACATED** to the extent that it denied as moot Defendant's Motion to Dismiss the Amended Complaint. The Clerk of Court is directed to update the docket sheet in this matter to reflect that Defendant's Motion to Dismiss the Amended Complaint filed on August 18, 2022, Doc. [14], is again pending in this matter.

IT IS FURTHER ORDERED that Plaintiff has **twenty-one (21) days** from the date of this Order to respond to the arguments made for dismissal by Defendant State of Missouri in its now-pending Motion to Dismiss directed at the Amended Complaint in this matter.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss the Original Complaint, Doc. [7], is **DENIED as MOOT**.

The Court warns Plaintiff that a failure to respond to defendant's motion to dismiss may result in the dismissal of this case.

Dated this 12th day of October, 2022.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE